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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
MEDFORD DIVISION

DENNIS LINTHICUM AND ANTHONY
INTISO,

Plaintiffs, Appearing Pro Se

v.

THE FEDERAL ENERGY REGULATORY
COMMISSION, THE STATE OF OREGON,
THE STATE OF CALIFORNIA and DOES 1
through 100,

Defendants.

Case No. 1:23-cv-00834-AA

COMPLAINT FOR INJUNCTIVE
RELIEF

JURISDICTION

1. The United States District Court has jurisdiction in this matter since Plaintiff alleges that the actions complained of in the instant case violate federal law, specifically the National Wild and Scenic Rivers Act of 1968, (Public Law 90-542, as amended through P.L. 117-286, December

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1 27, 2022). Those actions are occurring and will continue to take place in both the States of Oregon
2 and California.

3 **VENUE**

4 2. The United States District Court for the District of Oregon is the proper venue for
5 this case since Plaintiff, Dennis Linthicum, is a resident of Klamath County, State of Oregon, and
6 because the actions complained of are occurring, in part, in Klamath County, State of Oregon.

7 **DIVISIONAL VENUE**

8 3. The Medford Division of The United States District Court for the District of Oregon
9 is the proper Division in which this case should be heard since Plaintiff, Dennis Linthicum, is a
10 resident of Klamath County, State of Oregon, and because the actions complained of are occurring,
11 in part, in Klamath County, State of Oregon, and Klamath County falls within this Court's area of
12 authority.

13 **PARTIES AND THEIR INTERESTS**

14 4. Plaintiff, Dennis Linthicum (hereinafter, "Linthicum"), appearing Pro Se, is a
15 resident of Klamath County in the State of Oregon. He is an Oregon State Senator, water-rights
16 holder and ranch-land owner.

17 5. Plaintiff, Anthony Intiso (hereinafter, "Intiso"), appearing Pro Se, is a resident of
18 Siskiyou County in the State of California. He is a retired individual.

19 6. At issue in this case is the removal of four hydroelectric dams along the Klamath
20 River, one (1) of which is located in Oregon while the remaining three (3) are located in California.
21 Removal of the dams will have significant and adverse effects on the Klamath River and its
22 environs. More importantly, these adverse effects will directly impact the values upon which the
23 Klamath River received the "Wild and Scenic" designation. The most significant of these values
24 with respect to the Klamath River are its "recreational values."

25 7. Both Linthicum and Intiso stand to be harmed by the removal of these dams and,
26 thus, have joined to bring this suit so that each the of the Defendants may be legally named as
27 parties to this suit.

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1 8. Plaintiffs' interests are directly affected by the outcome of this proceeding in
2 several ways, including, but not limited to, loss of water availability both for irrigation and
3 consumption, loss of water quality, loss of property values, loss of livelihood and loss of economic
4 opportunity and economic security. Plaintiffs have also suffered increases in utility costs and are
5 reasonably informed and believe that these costs will increase even further now that the dams have
6 ceased to produce low-cost power for the region.

7 9. While Plaintiff, Linthicum, currently serves as an Oregon State Senator, he is also
8 a water-rights holder and ranch-land owner whose property lies in Klamath County, Oregon. As
9 a result of the actions which are the subject of this proceeding, Plaintiff, Linthicum and other
10 ranchers and farmers in both Southern Oregon and Northern California have already suffered loss
11 of availability of irrigation water supply and face further reductions if an injunction does not issue.

12 10. Plaintiff Intiso's water supply is threatened by the proposed actions of Defendants
13 which are the subject of this proceeding. Absent extremely costly and uncertain mitigation efforts,
14 Plaintiff and, indeed, all of the residents of California's northernmost counties, face the possibility
15 of severe tainting, if not total loss, of their water supply if an injunction does not issue.

16 11. Defendants' actions threaten public health and safety and environmental protection
17 as a result of Climate Change. Climate Change has caused extreme weather fluctuations affecting
18 both water supply and water quality on the Klamath River. By removing the dams, the flood
19 protection function of the dam is also removed, thus threatening downstream communities and
20 riparian habitat in wet years. Removal of the dams also threatens collapse of the water supply and
21 water quality in drought years, not only for relied upon domestic and agricultural use, but also for
22 wildfire suppression, fisheries support, and riparian habitat for wildlife support

23 12. Defendants' actions also threaten the economic stability and general welfare of the
24 communities in which Plaintiffs reside as these actions will have a direct and negative impact on
25 the recreational uses of the Klamath River which provide a substantial portion of those
26 communities' economic base. Loss of this economic base would have direct negative impacts on
27 Plaintiffs' livelihood, quality of life and economic security. Loss of this economic base could also
28 have far-reaching effects on the overall economic stability of both states as a whole, and while

1 both severe and dramatic, the potential effects of this upon Plaintiffs are nonetheless far too
2 expansive and ambiguous to be contemplated by this Court.

3 13. Defendant, The Federal Energy Regulatory Commission (hereinafter, "FERC") is
4 an independent federal agency that regulates the interstate transmission of electricity, natural gas,
5 and oil. FERC also reviews proposals to build liquefied natural gas (LNG) terminals and interstate
6 natural gas pipelines as well as licensing hydropower projects. The Energy Policy Act of 2005
7 also gave FERC several additional responsibilities including, amongst other things, responsibility
8 for overseeing environmental matters related to natural gas and hydroelectricity projects.

9 Defendant, The State of Oregon, (hereinafter "Oregon"), is a sovereign state of the United States,
10 and has entered into an agreement with Defendant, California, to jointly authorize and fund the
11 removal of the four hydroelectric dams on the Klamath River which are the subject of this
12 Complaint.

13 14. Defendant, The State of California, (hereinafter "California"), is a sovereign state
14 of the United States, and has entered into an agreement with Defendant, The State of Oregon, to
15 jointly authorize and fund the removal of the four hydroelectric dams on the Klamath River which
16 are the subject of this Complaint.

17 15. Plaintiffs are unaware of the true names and capacities (i.e., whether they are
18 individuals, businesses, governmental entities or some other form of legal entity) of Defendants,
19 DOES 1 through 100, inclusive, and therefore sues them by such fictitious names at this time.
20 Plaintiffs will seek leave from this Court to insert their true names and capacities at such time as
21 it becomes necessary, and this information has been determined.

22 STATEMENT OF FACTS

23 16. The Klamath River dams that are the subject of this suit were constructed between
24 1918 and 1962, and initially fell under the control of the California/Oregon Power Company
25 (COPCO) which was later acquired by and incorporated into the entity now known as PacifiCorp.
26 The dams were owned and operated by PacifiCorp under license from Defendant, FERC.

27 17. The National Wild and Scenic Rivers System was created by the Wild and Scenic
28 Rivers Act of 1968 (16 U.S.C. 1271-1287), (hereinafter "FWSRA") enacted by the U.S. Congress

1 to preserve certain rivers with outstanding natural, cultural, and recreational values in a free-
2 flowing condition for the enjoyment of present and future generations.

3 18. Defendant, Oregon, passed The River Democracy Act (hereinafter "RDA") in
4 1968, mirroring the actions of Congress in the FWSRA. The Klamath River was not included in
5 the RDA at that time.

6 19. In 1972 the portion of the Klamath River stretching from the Oregon/California
7 border to the Pacific Ocean was designated by Defendant, California, as a "Wild and Scenic River"
8 in the California Wild and Scenic River Act (hereinafter, "CWSRA"). Defendant, California,
9 made the determination to include the Klamath River based upon its outstanding recreational
10 values.

11 20. In 1987 the federal government also designated the Klamath River as a Wild and
12 Scenic River. At this time the Klamath River was added to list of protected rivers included in the
13 FWSRA. The determination to include the Klamath River was based on multiple values and
14 included the entire length of the river beginning at Klamath Lake in Oregon and continuing through
15 to the Pacific Ocean in California. The values upon which the Klamath River was designated
16 "wild and scenic" were accounted as follows: 11.7 miles of the river fall under the "wild" value,
17 this segment being largely untouched and pristine in nature; another 23.5 miles of the river are
18 classified under the "scenic" value, offering unique and extraordinary vistas; while the remaining
19 250.8 miles of the river are so designated for their "recreational" value, offering outstanding
20 opportunities for rafting and boating and access to remarkable fisheries.

21 21. In 1994 Defendant, Oregon, followed suit, designating that portion of the Klamath
22 River which runs from Klamath Lake to the Oregon/California border as "wild and scenic," and
23 incorporated it under the RDA. The determination to include it was based upon the outstanding
24 and remarkable values of its fisheries, its recreational values and scenic qualities and the
25 appurtenant wildlife.

26 22. It is important to note that the dams were already in place at the time the river was
27 so designated by both the federal government and Defendants, California and Oregon. Indeed, the
28 dam's placement was critical to the river receiving the "Wild & Scenic" designation. Therefore,

1 removal of the dams directly threatens the values upon which the “wild and scenic” designation
2 was dependent and to which both Defendants have committed to protecting.

3 23. Historically, the Klamath River did not run on a year-round basis. Prior to
4 construction of the dams, the river was often known to dry up, almost entirely, during the warmest
5 summer months. Although seemingly a contradiction in terms, placement of the dams and
6 regulation of water flow in fact created the appropriate flow-rates to attain the year-round “free-
7 flowing” description central to the “wild and scenic” recreational value assigned to the Klamath
8 River.

9 24. The reservoirs created behind the dams also served their original intent and purpose
10 as embodied in the very word, “reservoir,” and have held vital water supply during the many
11 extended years of drought suffered by the Northern California communities, enabling their survival
12 as well as maintaining the water flow in the Klamath River.

13 25. Having determined that it would be in its best financial interests to do so, PacifiCorp
14 has been exploring options for the past two decades for decommissioning and removing the dams.

15 26. However, the prospect of removing the dams has been the subject of much
16 controversy in the region. For this reason, during the 2007 General Election, voters in several
17 areas of the region were given the opportunity to weigh in on the matter through advisory referenda
18 intended to guide the actions of their local county governments.

19 27. A majority of the voters across the region voted to retain the dams. Of those voters
20 in Klamath and Siskiyou Counties who responded to the question, 69% in Klamath County and
21 79% in Siskiyou County chose to retain the Klamath River dams and voted against dam removal.
22 Notably, while local tribal governments *officially* support removal of the dams, the largest portion
23 of *individual members* of the tribes do not.

24 28. Nonetheless, in February 2010, various disparate groups, including PacifiCorp,
25 multiple government agencies, several tribes and multiple NGOs from the states of Oregon and
26 California, joined in a set of agreements to address removal of the four Klamath River dams.

27 29. To take effect, however, these agreements were contingent upon passage of certain
28 federal legislation. The required legislation would have included, in part, funding for the project

1 and protections for PacifiCorp, shielding it from liabilities and cost overruns that might be
2 associated with dam removal. No such legislation, however, was ever passed.

3 30. In a situation bearing striking similarities to that which is the subject of the instant
4 action, two (2) hydroelectric dams were removed from the Elwha River in Washington State. The
5 process began in 2011 and was completed in 2012. At the time it was the largest dam removal
6 effort in U.S. history. The title of largest dam removal project now applies to the Klamath River
7 dam removal project. Just as with the Klamath River dam removal project, one of the prime
8 anticipated benefits of removal of the dams on the Elwha River was the restoration and
9 reinvigoration of historic fisheries of the Coho Salmon and Steelhead Trout.

10 31. During this time and preparatory to giving the project serious consideration, FERC
11 commissioned an Environmental Impact Statement (hereinafter, EIS) to be prepared. The "draft
12 version" of that EIS was submitted for public review and comment in 2013.

13 32. Attached hereto as Exhibit 1, is a photograph taken from the National Park
14 Service's website. This photo contrasts the mouth of the Elwha River in 2011 prior to removal of
15 the two dams with the mouth of the Elwha River as it existed in 2014, two years after completion
16 of the dam removal project. Using what the authors call "conservative" estimates, the EIS states
17 that the impact of sediments released in removal of the dams would have a significant impact but
18 that this impact would be only "short-term," meaning that the impact is not estimated to last longer
19 than two years.

20 33. However, in a project that involved removal of only *two* dams, as opposed to the
21 *four* dams involved in the Klamath River project, it is clear that two years was far from sufficient
22 for the impacts to have been mitigated. Moreover, as no efforts were made to mitigate this impact,
23 the result has been the formation of what is, for all intents and purposes, a new river delta.
24 Plaintiffs are more than happy to acknowledge that this new delta provides a wealth of habitat and
25 protections for any number of species that were not historically based in the mouth of the river.
26 However, this habitat and the species it supports are *not* part of the river's historical makeup and
27 therefore no claim to "restoration" of the river should be considered accurate.

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1 34. When it became apparent that the desired federal legislation would not be
2 forthcoming for the Klamath River Dam Removal Project, those agreements were set aside and
3 the parties returned to the table for a new set of discussions in 2015.

4 35. In 2016, these discussions gave rise to a new agreement between PacifiCorp,
5 Defendants, Oregon and California, the U.S. Department of the Interior, the National Marine
6 Fisheries Service and the Yurok and Karuk Tribes. As with the prior agreements, the intent of this
7 new agreement was to facilitate the dam removal project.

8 36. Under this new agreement, PacifiCorp would transfer the four dams to the nonprofit
9 organization, Klamath River Renewal Corporation (hereinafter, KRRC), as a successor licensee
10 and the designated dam removal entity.

11 37. Following public comments and input from a wide variety of interested parties, a
12 "final version" of the EIS was compiled, and this final version was made available to the public in
13 early 2020. The final version of the EIS consisted of the original "draft" version with an addendum
14 containing the public comments and details of any changes to the draft."

15 38. On July 16, 2020, FERC entered an order approving a partial transfer of the license
16 for the Klamath River Dams from PacifiCorp as the sole owner, to PacifiCorp and KRRC as joint
17 licensees.

18 39. FERC explained it's rationale for this decision as follows:

19 "[t]ransferring a project to a newly formed entity for the sole purpose of decommissioning
20 and dam removal raises unique public interest concerns, specifically whether the transferee
21 will have the legal, technical, and financial capacity to safely remove project facilities and
adequately restore project lands". (7/16/20 Order at 67.)

22 40. FERC went so far in its decision as to state explicitly that, "PacifiCorp will not be
23 shielded from liability for dam removal". (7/16/20 Order at 68.)

24 41. During its deliberations, FERC reached the conclusion that it had sufficient
25 authority under federal law to require PacifiCorp to remove the dams at PacifiCorp's own expense,
26 but it did not choose to do so. This is fortunate, however, since it is questionable whether FERC
27 has such authority since, as will be asserted later in this Complaint, such a determination would be

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contrary to the unambiguous legislative mandate established by the Federal Wild and Scenic Rivers Act.

42. Following FERC's order in July, 2020, on or about November 16, 2020, PacifiCorp, KRRC, Defendants, Oregon and California, and certain Native American tribes entered into a Memorandum of Agreement (hereinafter, "The MOA"), a true copy of which is attached hereto as Exhibit 2.

43. Per The MOA, PacifiCorp and Defendants, Oregon and California, will each share one-third responsibility for any cost overruns associated with the dam removal project.

44. The MOA also included, among other things, the following language:

KRRC will serve as the Dam Removal Entity, which includes providing the identified insurance, bonding, contracting, and indemnity provisions to the States and PacifiCorp. KRRC and the States, as co-licensees, will carry out the final license surrender order to effectuate Facilities Removal. Once ownership of the Facilities is transferred for purposes of Facilities Removal, the States will defend PacifiCorp to the fullest extent of the law possible, including seeking to dismiss or remove PacifiCorp from any litigation asserting damages arising from harm caused by Facilities Removal.

45. Satisfied with this language and despite the reservations it had previously expressed, on or about November 17, 2022, FERC approved transfer of the licenses to KRRC and approved KRRC as the dam removal entity.

46. In October, 2022, more than 10 years after removal of the Elwha dams, Dr. Anne Shaffer, PhD, of both the Coastal Watershed Institute and the non-profit group Rewilding Earth made this report from the mouth of the Elwha River:

"The juvenile herring and sand lance born just last spring are shoaling in spectacular numbers along the nearshore as they ready to move offshore for the winter. It's a remarkably abundant landscape and the fall visibility is, for once this year, clearer under water than above due to wildfire haze. Troubling observation is that these images should also include adult coho, steelhead, cutthroat (and others)—but they are not here. *The ominous low flows from the unrelenting high pressure system are likely at play.*"¹ (emphasis added)

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¹ Dr. Anne Shaffer, PhD, of the Coastal Wetlands Institute, October, 2022
Reported at: <https://rewilding.org/elwha-nearshore-autumn-2022-update/>

PAINTIFFS' FIRST CLAIM

FOR VIOLATION OF THE WILD AND SCENIC RIVERS ACT

47. Plaintiffs repeat, replead and reallege paragraphs 1 through 46, inclusive, of this complaint and incorporate same by reference as if repeated here in full at this point.

48. Section 7 (a) of the WSRA reads as follows:

The Federal Power Commission shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act (41 Stat. 1063), as amended (16 U.S.C. 791a et seq.), on or directly affecting any river which is designated in section 3 of this Act as a component of the national wild and scenic rivers system or which is hereafter designated for inclusion in that system, and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary charged with its administration. (Emphasis added)

49. As stated in Paragraph 37, above, the final EIS for this project commissioned by Defendant, FERC, was released in early 2020. Section 3 of the EIS details the envisioned impacts of the proposed project and what, if any, mitigation efforts the authors of the report took into consideration. Several of those impacts are described as significant, having both short- and long-term effects. The FWSRA makes no distinction, however, between short- or long-term, temporary or permanent, adverse effects. Indeed, the FWSRA does not even take the significance of an effect into account nor does it consider the severity of the effect. Legislative will and intent is clear: No project shall proceed if that project will have an adverse effect on the values for which a river received its "wild and scenic" designation, and an agency has no discretion in this interpretation.

50. In *National Assn. of Home Builders v. Defenders of Wildlife*, 551 U.S. 644 (2007), Defendants had originally petitioned the lower courts to block transfer of licensing authority from the EPA to state agencies citing the Clean Water Act and the Endangered Species Act and claiming that the EPA should have taken other considerations into account and denied the transfer application. The lower courts concurred and ruled that the EPA was in violation of the Law in the transfer of licensing authority. Upon review, the High Court reversed the lower courts' decisions, ruling that the language of the Clean Water act constituted a legislative mandate, and that the EPA,

therefore, had no discretion to act otherwise. Writing for the majority, Justice Alito's Opinion states:

Section 402(b) of the CWA provides, without qualification, that the EPA "shall approve" a transfer application unless it determines that the State lacks adequate authority to perform the nine functions specified in the section. 33 U. S. C. §1342(b). By its terms, the statutory language is mandatory and the list exclusive; if the nine specified criteria are satisfied, the EPA does not have the discretion to deny a transfer application. Cf. *Lopez v. Davis*, 531 U. S. 230, 241 (2001) (noting Congress' "use of a mandatory 'shall' . . . to impose discretionless obligations"); *Lexe-con Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U. S. 26, 35 (1998) ("[T]he mandatory 'shall' . . . normally creates an obligation impervious to judicial discretion"); *Association of Civil Technicians v. FLRA*, 22 F. 3d 1150, 1153 (CA DC 1994) ("The word 'shall' generally indicates a command that admits of no discretion on the part of the person instructed to carry out the directive"); *Black's Law Dictionary* 1375 (6th ed. 1990) ("As used in statutes . . . this word is generally imperative or mandatory").

National Assn. of Home Builders v. Defenders of Wildlife, 551 U.S. 644 (2007) at 14

51. The FWSRA clearly states that no "project that would have a direct and adverse effect on the values for which such river was established" shall be licensed, this is clearly mandatory and imperative language per the standard set in *Homebuilders*.

52. In *Homebuilders*, quoting the standard originally established in *Chevron*, The High Court made clear that where statutory language is clear, "The Court as well as the agency must give effect to the unambiguously expressed will of congress":

We have recognized that "[t]he latitude the ESA gives the Secretary in enforcing the statute, together with the degree of regulatory expertise necessary to its enforcement, establishes that we owe some degree of deference to the Secretary's reasonable interpretation" of the statutory scheme. *Babbitt v. Sweet Home Chapter, Communities for Great Ore.*, 515 U. S. 687, 703 (1995). But such deference is appropriate only where "Congress has not directly addressed the precise question at issue . . . through the statutory text." *Chevron U. S. A. Inc. v. Natural Resources Defense Council, Inc.*, 467 U. S. 837, 843 (1984).

"If the intent of Congress is clear, that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress.... [However,] if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute." *Id.*, at 842-843 (footnotes omitted).

National Assn. of Home Builders v. Defenders of Wildlife, 551 U.S. 644 (2007) at 18

1 53. Section 3.2.5.2 of the EIS specifically addresses impacts related to Suspended
2 Sediment Concentration (SSC) and addresses the impact from the release of several hundred
3 thousand cubic tons of sediment currently trapped behind the dams. The EIS concludes that the
4 impact will be “significant and unavoidable” in the short term (meaning up to two (2) years post
5 dam removal) but suggests there will be no significant long-term impact.

6 54. Plaintiffs disagree, in fact, with the conclusion that there will be no long-term
7 impacts and, more importantly, question whether even the proposed long-term benefits of the dam
8 removal project will ever be realized. This is, however, irrelevant under the FWSRA which
9 mandates that no project shall be approved if that project is known to or can be shown to have an
10 adverse effect on the values for which a wild and scenic river was so designated. Such adverse
11 effects immediately disqualify any proposal from consideration or licensure and this without
12 regard for significance or duration.

13 55. Nonetheless, attached hereto as Exhibit 1, and in support of the explanation
14 provided above of the EIS authors’ conservative estimates, is a photo taken from the website of
15 the National Park Service after the removal of the Elwha dams in Washington state. This photo
16 compares the mouth of the Elwha River in 2011 just prior to dam removal with the same area in
17 2014. The impacts upon the “scenic” and “recreational” values of the Elwha River are obvious –
18 a waterway once filled with clean and pristine water is now brown and filled with detritus and
19 debris. The mouth of the Elwha, once unobstructed and free flowing, is now a clogged river delta
20 with a large chain of sandbars effectively blocking access to the river.

21 56. Also attached as Exhibits 3 and 4, respectively are photos taken from the websites
22 of Joel Rogers Photography and Oregon Public Broadcasting, both of which purport to show the
23 return of native vegetation to the former Elwha riverbed. While the surrounding vegetation is
24 certainly lush, the actual riverbed, however, shows little more than wide swaths of infertile
25 sediment deposits and a river with largely sluggish and anemic flows that would now be more
26 properly described as a stream rather than a river.

27 57. Since any reasonable man would conclude that results similar to the Elwha can be
28 expected on the Klamath, the impacts upon the Klamath’s “wild and scenic” recreational and

1 scenic values are clear, which issue is made even more dramatic when one considers that over a
2 decade has passed since the Elwha River dams were removed.

3 58. Since the Klamath River was designated as a Wild and Scenic River based in largest
4 part due to its outstanding recreational values, but to a lesser degree also upon the pristine and
5 untouched nature of certain segments; and since the sediment deposits that will be left behind will
6 have significant adverse effects both on the scenic and recreational values of the river, and since
7 the language of the FWSRA mandates that no project shall be licensed that would have any such
8 effects upon those values, and since the EIS makes clear that this project will do exactly that,
9 FERC should, therefore, have denied the application for dam removal.

10 **PAINTIFFS' SECOND CLAIM**

11 **FOR VIOLATION OF THE WILD AND SCENIC RIVERS ACT**

12 59. Plaintiffs repeat, replead and reallege paragraphs 1 through 58, inclusive, of this
13 complaint and incorporate same by reference as if repeated here in full at this point.

14 60. Upon reasonable information and belief, Plaintiffs allege that significant portions
15 of the Klamath River are now closed to recreational opportunities, including, but not limited to
16 camping, rafting, swimming and fishing. This is a direct and meaningful adverse effect resulting
17 from only the preparatory stages of the dam removal project and further and greater harms to those
18 recreational values can only result if an injunction does not issue.

19 61. While the FWSRA does not make provision for either the significance or duration
20 of adverse effects upon the values for which an included river was so designated, as with the
21 sediment deposits which are the subject of The First Claim for Violation of this Complaint, above,
22 it is important to note that any proposed mitigation of this impact must once again be highly suspect
23 in light of the current state of the Elwha River in Washington State. Despite numerous,
24 "scientific," reports touting the marvelous recovery of the river, the photographic evidence offered
25 in those very reports often contradicts the claims being made, two examples of which are attached
26 hereto as Exhibits 3 and 4 of the First Claim for Violation of this Complaint, above.

27 62. Since the Klamath River was designated as "Wild and Scenic" based in largest part
28 on its outstanding recreational values, both active uses of the river, as in rafting, and passive uses

1 of the river, as in camping, and since these uses are all appurtenant to the Klamath River's
 2 outstanding fisheries, and since those recreational values are dependent, in part if not entirely, on
 3 the proper water flow, volume and velocity that has been created by the presence of the
 4 hydroelectric dams on the Klamath River and since the dam removal project has already severely
 5 impacted, removed, restricted and curtailed any opportunities for the enjoyment of those values,
 6 and since the FWSRA explicitly prohibits any activities that would adversely affect those values
 7 and the subject impact, removal, restriction and curtailment clearly falls under that description,
 8 any and all such activities and indeed the project itself, are contrary to law.

9 **FIRST REQUEST FOR RELIEF – DECLARATORY RELIEF**

10 63. Plaintiffs request relief from this Court in the form of a declaration, declaring that
 11 Defendant, FERC's, approval and licensing of any project for removal of dams along the Klamath
 12 River is contrary to the expressed will of Congress as expressed in the Federal Wild and Scenic
 13 Rivers Act, and therefore contrary to Law.

14 **SECOND REQUEST FOR RELIEF – AN ORDER TO REVERSE OR REMAND**

15 64. Plaintiffs request relief from this Court in the form of an order reversing Defendant,
 16 "FERC's" decision to approve and license the dam removal project which is the subject of this
 17 suit. Alternatively, Plaintiff requests that this Court remand the question to FERC for further
 18 review.

19 **THIRD REQUEST FOR RELIEF – A COURT ORDER**

20 65. Plaintiff requests relief from this Court in the form of an Order, directing
 21 Defendants, California and Oregon, as well as their agents, assigns and contractors to restore any
 22 and all damages to existing infrastructure, including but not limited to, the dams themselves,
 23 equipment related to generation of hydroelectric power, fisheries and any habitat which has been
 24 significantly disturbed.

25 **FOURTH REQUEST FOR RELIEF – INJUNCTIVE RELIEF**

26 66. Other than as may be necessary to fulfill the terms of the Relief sought in Plaintiffs'
 27 Third Request for Relief, Plaintiffs request relief from this court in the form of an injunction
 28 permanently enjoining Defendants, California and Oregon, including their agents, assigns,

successors or contractors, from any and all current or future physical activities related to removal of any of the dams currently in place on the Klamath River. This would include, but is not limited to, administrative, mechanical, exploratory, preparatory or research operations, related to the dam removal project

FIFTH REQUEST FOR RELIEF – INJUNCTIVE RELIEF

67. Other than as may be necessary to fulfill the terms of the Relief sought in Plaintiffs' Third Request for Relief, Plaintiffs request relief from this court in the form of an injunction permanently enjoining Defendants, California and Oregon, including their agents, assigns, successors or contractors, from any and all current or future financial activities related to the dam removal project, including but not limited to funding, authorization of funding or any expenditure of funds beyond those reasonably associated with the "shut-down" of a major project

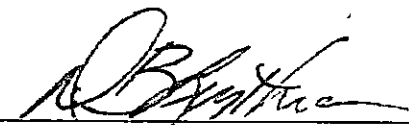
SIXTH REQUEST FOR RELIEF – EQUITABLE RELIEF

68. Plaintiffs' Sixth Request for Relief from this Court is an Order directing Defendants to pay Plaintiffs' costs of suit incurred herein along with any other financial relief due Plaintiffs' that this Court may deem just and equitable.

By affixing our names and signatures below: We hereby swear and attest, under penalty of perjury under the laws of this Court, that the foregoing is true and correct to the best of our knowledge.


06/08/2023

Date


Dennis Linthicum, Oregon State Senator
Plaintiff, appearing Pro Se

06/08/2023

Date


Anthony Intiso
Plaintiff, appearing Pro Se